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CPI Competition Policy Institute

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Aug. 1, 1997

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Mr. William Caton
Secretary
Federal Communications Commission
1919 M St. N.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

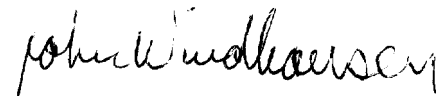
**EXPARTE: Application of Ameritech Michigan to provide
InterLATA service in Michigan under Section 271.
CC Docket No. 97-137**

Dear Mr. Caton:

On Wednesday, July 30, 1997, Ronald Binz, Debra Berlyn and John Windhausen of the Competition Policy Institute (CPI) met with Kathy Franco of Commissioner Chong's office to discuss the above-captioned matter. CPI discussed its "realistic choice" approach toward enforcing the public interest test for any interLATA application, which CPI raised in its comments on the Ameritech application and which is summarized in the attachment.

Pursuant to section 1.1206(a)(2) of the Commission's rules, an original and one copy of this notice are being filed with your office.

Sincerely,



John Windhausen, Jr.
General Counsel

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CPI Competition Policy Institute

July 30, 1997

CPI's "REALISTIC CHOICE" APPROACH TO THE PUBLIC INTEREST STANDARD CONCERNING RBOC 271 APPLICATIONS

1. The "public interest" standard allows the FCC to exercise a common sense judgment in reviewing each application. In so doing, the FCC should examine ALL factors that affect whether consumers would be better served from granting the application.
2. While the FCC should examine all factors, the FCC need not give them all equal weight. The Commission should give primary importance, or "substantial weight", to whether consumers in the state have a *realistic choice* of alternate local telephone providers.
3. The availability of competitors for local telephone service is critically important to any long distance application for three reasons:
 - a) The availability of local competition is the only sure way to determine that all the barriers to local competition have been removed. The best proof that the RBOC has unbundled its network and implemented OSS, that municipalities have removed regulatory roadblocks, that landlords are permitting access to buildings, that billing services are available in a non-discriminatory fashion, that consumers are not locked into long-term contracts, that RBOCs have not imposed "PIC-freezes", that intraLATA toll dialing parity is available, etc. is evidence that competitors are actually entering the market.
 - b) Some degree of local competition is a necessary safeguard to protect against discrimination against competitive long distance companies, cross-subsidization, and other anticompetitive harms. If long distance companies and consumers have an opportunity to choose an alternate local provider, the RBOC will have greatly reduced incentives to engage in anticompetitive conduct.
 - c) The benefits of local competition are far greater to consumers than the benefits of adding one more long distance competitor to a relatively competitive long distance market.
 - d) The "realistic choice" approach is simpler to administer than the DOJ's proposed "irreversibly opened to competition" standard. To determine whether a market is irreversibly opened to competition, the Commission would have to examine each of the factors listed above (RBOC unbundling, PIC-freezes, municipal regulation, etc.) and determine their relative importance. Since the realistic choice approach is an "end results" test, it is much easier to evaluate.

4. The *realistic choice* approach is NOT:

- a) a market share test. The realistic choice standard measures whether consumers can choose a competitor, not whether they actually have subscribed to a competitor. (The FCC can, however, examine market shares as evidence of whether competitors are available.)
- b) adding to the competitive checklist. The FCC should not use the *realistic choice* standard as a precondition to interLATA entry in the same way that checklist items are preconditions. Whether consumers have a realistic choice is one factor, albeit the most important factor, of several that the FCC should consider as part of its public interest analysis.

5. As part of a *realistic choice* approach, the FCC should examine:

- a) whether urban, suburban and rural customers have a realistic choice;
- b) whether large businesses and small businesses have a realistic choice;
- c) whether residential customers in apartment buildings and residential customers in single-family homes have a realistic choice;
- d) whether competitors are available in one location in the state or throughout the state.
- e) whether high-income subscribers, middle-income subscribers and low-income subscribers have a realistic choice.

It is not necessary for the Commission to find that every one of these categories of consumers have a competitor available to them. But the Commission should gather evidence of the availability of competition for each of these subgroups. The more categories of consumers that have a realistic choice available to them, the more likely the RBOC application would satisfy the public interest test.